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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/932,736	08/17/2001	Reza Jalili		5780

7590 06/28/2004

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EXAMINER

PORTKA, GARY J

ART UNIT	PAPER NUMBER
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2188

DATE MAILED: 06/28/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/932,736

Applicant(s)

JALILI, REZA

Examiner

Gary J Portka

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

1. Claims 1-11 are presented for examination.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1 and 3-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. Claims 1, 8, and 9 are an omnibus type claim. See MPEP 2173.05(r). Claims 3-7 depend from claim 1, and incorporate the limitations thereof. Additionally, "said mass storage device" in claims 3 and 4, "said circuit" in claim 5, "said data inputs" in claim 6 lack proper antecedent basis.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claim 2 is rejected under 35 U.S.C. 102(b) as being anticipated by DeNicola, US 5,961,613.

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6. As to claim 2, DeNicola discloses a data storage comprising mass storage device and circuit associated therewith that generates data representative of data inputs and outputs of the mass storage (see col. 6 lines 44-67, and col. 8 line 2-14, describing counts of reads and writes for each disk drive).

7. Claim 2 is rejected under 35 U.S.C. 102(e) as being anticipated by Hafez et al., US 6,513,065 B1.

8. As to claim 2, Hafez discloses a data storage comprising mass storage device and circuit associated therewith that generates data representative of data inputs and outputs of the mass storage (see col. 12 lines 13-16, describing a counter that measures total number of disk accesses over it's lifetime).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeNicola, US 5,961,613, in view of Bianco, US 5,689,243.

11. As to claims 10-11, DeNicola discloses a method of measuring data transfer on a mass storage device, comprising reading information indicating amounts of data written and read at different times and comparing them (see col. 6 lines 44-67, and col. 8 lines 2-50, which additionally to as discussed above describes measurements made at various times so that access amount may be

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plotted over time). DeNicola does not compare to an authorized difference. However, it was known in general that comparison of the number of accesses to a device over a time interval could be compared to an authorized amount to determine if any unauthorized access had taken place. See Bianco Abstract, and col. 6 lines 11-26, which describe a system which measures number of accesses to a device versus a number of assumed (i.e., authorized) accesses. Clearly an artisan familiar with this concept would have recognized that it could advantageously be applied to the counts of accesses used in DeNicola to determine if an unauthorized access had occurred therein. Thus it would have been obvious to one of ordinary skill in the art at the time of the invention to compare to an authorized difference, because it was known that comparison of number of accesses to an assumed authorized amount of accesses would identify possible unauthorized accesses.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Patent No:

5,845,069 Compares access transactions with permissible number.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary J Portka whose telephone number is (703) 305-4033. The examiner can normally be reached on M-F 9:30 AM - 6:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mano Padmanabhan can be reached on (703) 306-2903. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gary J Portka
Primary Examiner
Art Unit 2188

June 25, 2004